

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

ANDREW C. BICKEL,	)	
v.	)	
JAMES VECHECCO, et al,	)	C.A. No. 09-115 ERIE
Defendants.	)	

**MEMORANDUM ORDER**

Plaintiff's complaint was received by the Clerk of Court on May 19, 2009, and was referred to United States Magistrate Judge Susan Paradise Baxter for report and recommendation in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

The magistrate judge's amended report and recommendation ("R&R"), filed on February 2, 2011, recommended that the motion to dismiss, or alternatively, for summary judgment, filed by Defendant Graml (Document No. 14) be granted. It was further recommended that the motion for summary judgment filed by Defendant Vechecco (Document No. 20) be granted in part and denied in part. It was further recommended that the court *sua sponte* dismiss plaintiff's claim that his constitutional right to a grievance procedure has been violated. Finally, it was recommended that plaintiff be allowed to amend his complaint in order to name a government entity defendant in his Monell claim.

The parties were allowed fourteen (14) days from the date of service to file objections. No objections were filed, although defendant Vechecco sought leave to supplement his motion. After de novo review of the pleadings and documents in the case, together with the report and recommendation and objections thereto, we adopt Magistrate Judge Baxter's February 2, 2011 R&R as the Opinion of the Court.

AND NOW, this 16<sup>th</sup> day of March, 2011;

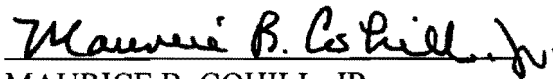
IT IS HEREBY ORDERED, ADJUDGED and DECREED that said report and recommendation (Doc. 52) is adopted as the opinion of the Court. The motion to dismiss, or, alternatively, for summary judgment, filed by defendant Graml (Doc. 14) is hereby granted. The

Clerk of Courts is directed to terminate defendant Graml from this action.

IT IS FURTHER HEREBY ORDERED that the motion for summary judgment filed by defendant Vechecco (Doc. 20) be GRANTED IN PART AND DENIED IN PART. The motion is hereby granted as to the food contamination and inadequacy of dental care claims, and denied as to the retaliation claim.

IT IS FURTHER ORDERED that plaintiff's claim that his constitutional right to a grievance procedure has been violated is hereby DISMISSED *sua sponte*.

IT IS FURTHER ORDERED THAT plaintiff may file an amended complaint in order to name a government entity defendant on his Monell claim. Said amended complaint shall be filed within forty-five days.



MAURICE B. COHILL, JR.

United States District Judge

cc: Susan Paradise Baxter  
U.S. Magistrate Judge  
all parties of record \_\_\_\_\_